

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:07-CV-207-DCK**

**CHARLES EDSSEL KIKER,** )  
**Individually, and Personal Representative of** )  
**Rodney Neil Kiker (deceased),** )  
 )  
**Plaintiff,** )  
 )  
**v.** )  
 )  
**MONY LIFE INSURANCE COMPANY** )  
**OF AMERICA,** )  
 )  
**Defendant.** )  
\_\_\_\_\_ )

**ORDER**

**THIS MATTER IS BEFORE THE COURT** on Plaintiff's "Motion to Remand" (Document No. 6), filed June 19, 2007 and Defendant's "Response To Motion To Remand" (Document No. 7), filed June 21, 2007. The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c), and this motion is now ripe for disposition.

Having fully considered the arguments, the record, and the applicable authority, the undersigned will deny the motion.

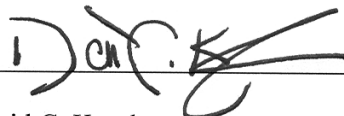
Plaintiff's "Motion to Remand" is based entirely on the argument that Defendant's "Notice of Removal" (Document No. 1), filed May 21, 2007, was filed 31 days after Defendant was served a copy of the "Complaint" on April 20, 2007. Plaintiff contends that pursuant to 28 U.S.C. § 1446(b) such filing of the "Notice of Removal" was untimely.

Defendant's response acknowledges that the "Notice of Removal" was filed thirty-one (31) days after service of the "Complaint;" however, Defendant contends that Fed.R.Civ.P. 6 applies to the computation of time for filing notices of removal. Thirty days (30) after service of the

“Complaint” was Sunday May 20, 2007. Pursuant to Fed.R.Civ.P. 6(a), “[t]he last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday....” See also, McKinney v. Board of Trustees of Mayland Community College, 955 F.2d 924, 926 (4<sup>th</sup> Cir. 1992). Plaintiff has not filed a reply to Defendant’s argument, and the undersigned is satisfied that the Plaintiff’s “Notice of Removal” was timely filed.

**IT IS, THEREFORE, ORDERED** that Plaintiff’s “Motion to Remand” (Document No. 6) is **DENIED**.

Signed: October 10, 2007

  
\_\_\_\_\_  
David C. Keesler  
United States Magistrate Judge

